

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for European Union word mark Sky5 — Application for registration No 17 837 221

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 30 September 2020 in Case R 229/2020-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- reject the objections to registration of the contested mark in their entirety;
- order EUIPO to pay the costs incurred by the applicant in connection with this appeal.

Pleas in law

- The Board of Appeal failed to consider the appeal properly or at all;
- The Board of Appeal was wrong to conclude that a likelihood of confusion would arise in respect of the class 40 services;
- The Board of Appeal breached the rules of natural justice by reaching its decision on bases other than those argued before it;
- The Board of Appeal was wrong to conclude that the Licence demonstrated that the Opponent was entitled to bring oppositions in reliance on the European Union trade mark;
- The opposition will be devoid of purpose, insofar as it is based on the United Kingdom trade mark, at the end of the transition period, i.e. from 1 January 2021, when references to Member States in the Regulation (EU) 2017/1001 of the European Parliament and of the Council will no longer refer to the United Kingdom.

Action brought on 30 November 2020 — TrekStor v EUIPO (e.Gear)

(Case T-708/20)

(2021/C 28/95)

Language of the case: German

Parties

Applicant: TrekStor Ltd (Hong Kong, China) (represented by: O. Spieker, A. Schönfleisch and N. Willich, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark e.Gear — Application for registration No 18 065 340

Contested decision: Decision of the First Board of Appeal of EUIPO of 15 September 2020 in Case R 561/2020-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs.

Pleas in law

- Infringement of Article 7(1)(b) in conjunction with Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 7(1)(c) in conjunction with Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 30 November 2020 — OJ v Commission

(Case T-709/20)

(2021/C 28/96)

Language of the case: German

Parties

Applicant: OJ (represented by: H. von Harpe, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the decision of the European Personnel Selection Office (EPSO) of 1 September 2020, ref. Ares(2020)s. 5088474, and all related acts;
- reopen competition EPSO/AD/380/19 for the recruitment reserve for the European Commission of administrators (AD7/AD9) in the field of international cooperation and management of aid to non-EU countries, in accordance with the rules and, in particular, with a reasonable period for the applicant to register;
- in the alternative, repeat open competition EPSO/AD/380/19 for the recruitment reserve for the European Commission of administrators (AD7/AD9) in the field of international cooperation and management of aid to non-EU countries, in accordance with the rules and, in particular, with a reasonable deadline for applications; and
- order the defendant to pay the costs.

Pleas in law and main arguments

The present action seeks the annulment of the decision of the European Personnel Selection Office (EPSO) concerning the refusal to allow the applicant to take part in the computer-based multiple-choice tests outside the test period laid down for open competition EPSO/AD/380/19.

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging unequal treatment

- The defendant acted in a manner which amounted to unequal treatment. It did not compare comparable situations. Due to his work for an EU delegation, the applicant suffered from security and mobility restrictions which did not allow him to travel abroad at short notice. In addition, in his absence, there was no supervisor for his children.